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| APPLICATION NO.         | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO.    | CONFIRMATION NO. |
|-------------------------|-------------|-----------------------|------------------------|------------------|
| 10/662,644              | 09/15/2003  | John Christian Haught | 8170R                  | 9385             |
| 27752                   | 7590        | 09/07/2005            | EXAMINER               |                  |
|                         |             |                       | PRYOR, ALTON NATHANIEL |                  |
|                         |             |                       | ART UNIT               | PAPER NUMBER     |
|                         |             |                       | 1616                   |                  |
| DATE MAILED: 09/07/2005 |             |                       |                        |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                   |                         |
|------------------------------|-----------------------------------|-------------------------|
| <b>Office Action Summary</b> | <b>Application No.</b>            | <b>Applicant(s)</b>     |
|                              | 10/662,644                        | HAUGHT ET AL.           |
|                              | <b>Examiner</b><br>Alton N. Pryor | <b>Art Unit</b><br>1616 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,4 and 6-17 is/are rejected.
- 7) Claim(s) 3,5 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/15/05

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-17, drawn to compound, classified in class 544, subclass 1+.
- II. Claims 18-20, drawn to process of making compounds, classified in class 544, subclass 1+.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product can be made by a different process.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with Attorney McBride on 8/31/05 a provisional election was made with traverse to prosecute the invention of I, claims 1-17. Affirmation of this election must be made by applicant in replying to this Office action. Claims 18-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

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remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al (J. Med. Chem., 1985,28,143-146). Brown teaches a compound 23 where R1 = 4-Cl, R2 = Me phenyl-, R3 = H, R4 = 4-CN. See compound 23 in Brown's reference. This compound is equivalent to instant compound where m = 1; a,b,g,t = 0; and R1 = Me.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,4,6,8-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown as applied to claims 1 and 7 above. Brown teaches all that is recited in claims 2,4,6,8-17 except for the composition comprising a compound where m,t = 0 and G= H; a solvent; and surfactant. Brown's compound differ from instant compound in that instant compound has a "H" in place of "Me" on Phenyl-CO substituent. It would have

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been obvious to one having ordinary skill in the art to make the instant compound where phenyl-CO was unsubstituted at the time the invention was made. One would have been motivated to do this since H and Me have similar polarity and would therefore exhibit similar activity in the same application. It obvious to include solvents and surfactants in a composition.

***Claim Objection***

Claims 3,5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach or suggest the instant invention comprising a textile or an enzyme.

***Telephonic Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 571-272-0621. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz can be reached on 571-272-0887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alton Pryor  
Primary Examiner  
AU 1616